

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

ECOFACTOR, INC.,  <div style="text-align: center;">Plaintiff,</div> <div style="text-align: center;">v.</div> ECOBEE, INC.,  <div style="text-align: center;">Defendant.             </div>	Case No.: 6:20-cv-00078-ADA  <b>JURY TRIAL DEMANDED</b>
ECOFACTOR, INC.,  <div style="text-align: center;">Plaintiff,</div> <div style="text-align: center;">v.</div> ECOBEE, INC.,  <div style="text-align: center;">Defendant.             </div>	Case No.: 6:21-cv-00428-ADA  <b>JURY TRIAL DEMANDED</b>  <u><b>LEAD CASE</b></u>  <div style="background-color: black; height: 20px; width: 100%;"></div>

**OPPOSED MOTION FOR LEAVE TO FILE ADDITIONAL MOTION *IN LIMINE***

Plaintiff EcoFactor, Inc. (“EcoFactor”) respectfully seeks leave to file EcoFactor’s Motion *in Limine* No. 13, attached hereto as Exhibit A. ecobee opposes this request.

Good cause exists for EcoFactor’s MIL No. 13, because it only addresses 38 exhibits that ecobee first identified on March 6, 2023, which was nearly two months after this Court’s deadline to exchange exhibit lists and two weeks after all briefing *concluded* on MILs. *See* Dkt. No. 31. The substance of proposed MIL No. 13 therefore could not have been raised in EcoFactor’s original MILs, as those MILs were filed several weeks before ecobee ever identified its new exhibits. Addressing them in EcoFactor’s original MILs would have been literally impossible.

Accordingly, EcoFactor respectfully requests an Order permitting EcoFactor to file the attached 2.5-page motion *in limine* (Ex. A) and a single exhibit (Ex. 1) accompanying that motion.

In addition to a proposed order granting this motion for leave, EcoFactor is also submitting herewith a revised version of the proposed order submitted with EcoFactor's originally filed MILs (Dkt. No. 127). That prior proposed order included space for the Court to indicate grants and denials of EcoFactor's previously filed MIL Nos. 1-12, so the revised version accompanying this submission includes an additional space for MIL No. 13, should the Court grant EcoFactor leave to file that additional MIL.

Date: April 6, 2023

Respectfully submitted,

/s/ Reza Mirzaie

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**CERTIFICATE OF SERVICE**

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served on April 6, 2023, with a copy of this document via the Court's CM/ECF.

/s/ Reza Mirzaie

Reza Mirzaie